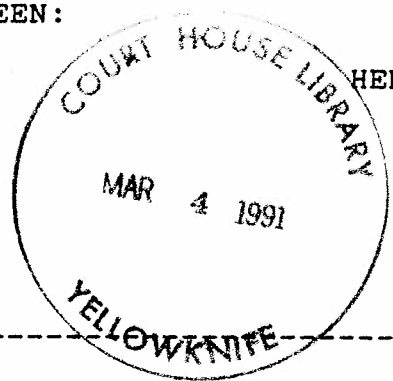


IN THE TERRITORIAL COURT OF THE NORTHWEST TERRITORIES

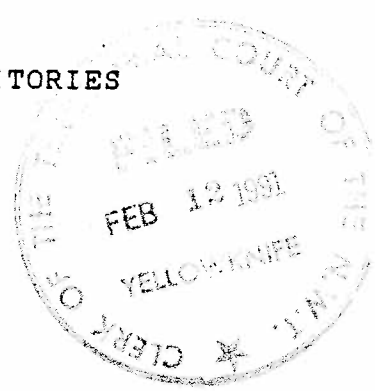
BETWEEN:



HER MAJESTY THE QUEEN

- v. -

GEORGE MILUKSHUK



Accused

REASONS FOR JUDGMENT OF HIS HONOUR JUDGE T.B. DAVIS

THE COURT: George Milukshuk, who is 36 years of age, admits that on March 18th, when he and a friend were at a party, and they were intoxicated, his friend passed out, and the accused was drunk enough that he became annoyed and upset to the effect that he kicked his friend in the face when he had his shoes on, causing his friend, the victim, to suffer a swollen face and torn retina.

Because of the tear involving his eye, his friend required surgery in Edmonton, and came close to losing the sight of his eye.

There will be some period of time before the full medical recovery has been accomplished.

The accused has no criminal record. He is a person who has been caring for a family, and has regular employment for the past number of years in the mining industry therefore ordinarily is a responsible person in the community.

He seems to now have realized he may have had an alcohol problem that may not have been fully aware to him before. He has

1 no recollection of what happened on this occasion.

2 It is his first appearance before the Court, has had a  
3 stable background in his life, and now realizes if that can happen  
4 to a friend, that maybe he should be concerned enough to consider  
5 taking counselling in the future.

6 It is interesting that there is a parallel between what  
7 happened to the accused in assaulting his friend, to what happened  
8 in Alkali Lake in British Columbia, when a man was so drunk that  
9 he beat his father up, and the following day, learned that he had  
10 assaulted his father and then done injury to him. That man was so  
11 concerned about what he had done and did not remember doing, that  
12 he gave up drinking forever.

13 It is one of the success stories in Alkali Lake that a  
14 number of people, when they do realize the affect of alcohol,  
15 learn something from it, and make an effort to overcome it.

16 I can only hope that the accused is sincere when he speaks  
17 through counsel today and says that maybe he realizes now that he  
18 needs counselling for alcohol if he can have a lack of memory  
19 resulting or following a state of intoxication.

20 I have looked at cases relating to assaults causing bodily  
21 harm and discussed some of them earlier today. It is not uncommon  
22 for the Court to arrange gaol terms between three months, and  
23 somewhere between twenty-four months for assault causing bodily  
24 harm even for persons who appear in the Court for the first time.  
25 Repeat offenders often have sentences of higher periods of gaol  
26 than eighteen months.

27 I must recognize the accused is here for the first time,

1 and therefore can be treated more leniently than repeat offenders.

2 He does have employment, so as to not interfere with his  
3 employment, it would be possible to have him continue at his job  
4 and still serve some time in gaol if the sentence of the Court is  
5 less than ninety days in gaol.

6 On an earlier case today when an accused struck his wife  
7 and caused her to have a tooth loosened, and a cut lip, and some  
8 bruising, I imposed a gaol term that I felt was the shortest  
9 possible gaol term that I thought I could consider because of the  
10 good background of the accused in that instance. That was one  
11 month in gaol.

12 I am going to take into account the accused before me now  
13 has shown that he has acted responsibly in the past, having never  
14 committed the offences in the past or never been convicted of  
15 committing offences -- I should say, and has been responsible for  
16 the care of his family. I therefore feel that I can also impose a  
17 short period of time in gaol.

18 This is a vicious and violent offence, even though the  
19 accused may not remember it, and I intend to impose less than  
20 sixty days in gaol on this offence.

21 Is there anything you wish to say before I impose  
22 sentence, Mr. Milukshuk?

23 The sentence of the Court then shall be that you are to  
24 serve forty-five days in gaol.

25 In addition to that, you will be placed on probation for a  
26 period of two years. You shall report to the probation officer  
27 when and as directed.

1           You shall participate in any alcohol counselling or  
2 treatment programs recommended by the probation officer.

3           In addition to that, you shall perform seventy hours of  
4 community service work when and as directed.

5           You will be on a period of probation. If you wish to  
6 serve this sentence intermittently, and you may serve it on the  
7 terms that we can now work out --

8 MR. FUGLSANG:            Would being in gaol now until the 23rd day  
9 of May be appropriate, being released then for a period of one  
10 week -- released for one week of work, released on the 23rd?

11           If it might be convenient for him to do it -- to do it in  
12 reasonable sized chunks, if he could start at the end of that work  
13 period, two weeks in and two weeks out?

14 THE COURT:                You indicate he is going to be -- he is  
15 off between now and the 23rd, but it is pretty hard -- if he  
16 served that time now, that would be a substantial period towards  
17 his forty-five days.

18 MR. FUGLSANG:            It might be very helpful at that point,  
19 and then be released from gaol so he can work for the one week  
20 then return to gaol for a further two weeks, and released for two  
21 weeks, and return for two weeks, it would shorten his time  
22 substantially if he would do it on that basis.

23 THE COURT:                But I will take your recommendations on  
24 times if you wish to work something out that is more suitable.

25 MR. FUGLSANG:            He was suggesting that it would be more  
26 convenient to have time to set this up with his employer, if he  
27 had a few more days to work -- not to go this week, that he is in

1 right now, and start his sentence after the shift of the 30th or  
2 the end of May.

3 THE COURT: Go back to work on the 23rd, do that  
4 shift, and then commence his intermittent time for that next two  
5 week period, and do straight two weeks in and two weeks out until  
6 it is served?

7 Is that possible?

8 MR. FUGLSANG: If we were given the distance of a week,  
9 probably two days almost --

10 THE COURT: A week what?

11 MR. FUGLSANG: We're only talking a week before he has to  
12 start work again on the 23rd.

13 THE COURT: We are talking a week for what?

14 MR. FUGLSANG: Before he is back to work on the 23rd.

15 THE COURT: This is the 11th. Oh, yes, I was thinking  
16 it was almost a two-week period.

17 MR. FUGLSANG: No, it's only a week, so --

18 THE COURT: Therefore then, if you wish, we will  
19 consider that he will serve his time then commencing for two weeks  
20 in, and two weeks out, commencing on the particular date that he  
21 has to report to the Correctional Centre in Yellowknife.

22 What day would that be?

23 MR. FUGLSANG: Report in Yellowknife on the 30th at the  
24 end of his shift, commencing May 30th, 1990 for two weeks; he has  
25 to leave on the 13th of June --

26 THE COURT: Well, why do you not work something out,  
27 and give me a schedule, and that is going to be easier.

1 MR. RODYCH: Your Honour, will the Section 100 Order be  
2 made in this matter?

3 THE COURT: Yes, I believe that in addition to gaol  
4 and probation, there will be a prohibition order for a period of  
5 five years prohibition on the possession of firearms or any  
6 explosive substance.

7 And when counsel have worked out something, we can  
8 finalize the terms of the probation order that requires his  
9 attendance at Yellowknife Correctional Centre to serve his forty-  
10 five days.

11 Are there other matters we are going to be dealing with?

12 We might has well take a short adjournment just to take  
13 care of this. That you are looking at.

14 (ADJOURNMENT)

15 THE COURT: As I understand, the accused will be able  
16 to report to Y.C.I. on the 30th of May?

17 MR. FUGLSANG: I'm not sure what time the plane gets in.

18 THE COURT: Maybe we had better put it at 8:00 P.M. --  
19 and can serve until 6:00 in the morning on the 15th -- 6:00 A.M.  
20 on June 15, 1990. That is a total of fifteen days.

21 Then commence again on the 27th at 8:00 P.M. -- that is  
22 from June 27th, 1990 at 8:00 P.M. to July 11th, 1990 at 6:00 A.M.

23 MR. FUGLSANG: And that is also a period of fifteen days.

24 THE COURT: Yes.

25 MR. FUGLSANG: And to commence again at 8:00 in the  
26 evening again on the evening of the 25th of July -- July 25, 1990,  
27 to 7:00 A.M. of August the 8th.

1 THE COURT: August 8, 1990.

2 MR. FUGLSANG: That is a total of forty-five days, Your  
3 Honour.

4 THE COURT: Now, would it be wise then to have him  
5 clear one day today, because if he is going to get his customary  
6 reduction, he will not have to go back probably in July at all.  
7 Two-thirds of his time, and allow for a day, and not allow for the  
8 last day in the end. We would not show any docking off, but he  
9 then probably would not have to go back, because it may be by  
10 calculation he might have to go back otherwise. I am just saying  
11 if these other calculations are right, he will have fifteen days  
12 the first. And if you make it on the 7th of August instead of the  
13 8th, it should not matter.

14 MR. FUGLSANG: He can't show forty-six days, if he's --

15 THE COURT: No, but we will put that and he will  
16 return July 25th, 1990 at 8:00 P.M., and serve the balance of his  
17 term.

18 MR. FUGLSANG: Fine.

19 THE COURT: But if he is serving thirty days out of  
20 forty-five, there will not be any returning on July 25th; in fact,  
21 if we are sure that there is thirty days served in the meantime, I  
22 suppose --

23 MR. FUGLSANG: It might be safer to allow today as a day.

24 THE COURT: Has he been here throughout the day?

25 MR. FUGLSANG: Absolutely. The entire day.

26 THE COURT: Madam Clerk, in our direction with regard  
27 to intermittent service then for George Milukshuk, he shall serve

1 one day by being in Court today, May 11, 1990; and shall have the  
2 balance of a period of forty-five days by attending for the  
3 periods of two weeks at the Yellowknife Correctional Centre,  
4 commencing on May 30, 1990 at 8:00 P.M., and to remain -- and to  
5 serve that first period until June 15, 1990 at 6:00 P.M.

6 And he shall --

7 MR. FUGLSANG: Sorry, Your Honour. That's a mistake. It  
8 is 13th of June.

9 THE COURT: June 13, is it?

10 Are your figures correct then?

11 MR. FUGLSANG: Yes, they are.

12 THE COURT: And he shall serve from June 27, 1990 at  
13 8:00 P.M. until July 11, 1990 at 6:00 A.M., and shall serve the  
14 balance of his term commencing on July the 25th, 1990 at 8:00 P.M.

15 The authorities will have to advise him as to whether or  
16 not that is necessary, depending on his good conduct, I believe,  
17 during that period of time.

18 He will have to stay around to sign the probations orders,  
19 Mr. Milukshuk.

20 MR. FUGLSANG: Your Honour, no time has been given for  
21 the surrender of firearms.

22 THE COURT: Firearms prohibition for five years, how  
23 long will it take you to dispose of any firearms that you have?

24 MR. FUGLSANG: How does he have to dispose of them?

25 THE COURT: He has to arrange not to have possession  
26 of them himself, and that means he has to officially transfer them  
27 to other persons, and not have them, and I believe that means



1 application to the R.C.M.P. to dispose of them or transfer them.  
2 They have to be transferred.

3 MR. FUGLSANG: Title has to be transferred, or  
4 possession?

5 THE COURT: Possession, and he is not to have  
6 possession under the law, so he is required to have them out of  
7 his possession.

8 MR. FUGLSANG: Does that require a change of title?

9 THE COURT: You would have to advise him; I am not  
10 sure. Prohibition from having possession of firearms.

11 How long will it take to get them out of his possession?

12 MR. FUGLSANG: Until next Tuesday, Your Honour.

13 THE COURT: It is one week then?

14 MR. FUGLSANG: Yes.

15 THE COURT: He will have to dispose of them, not have  
16 them in his possession, and make sure that he doesn't have them  
17 within the period of one week.

18 Do you understand all that, Mr. Milukshuk?

19 You stay around, and the Clerk will be preparing that  
20 probation order for your signature.

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22 PROCEEDINGS CONCLUDED

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24 Delivered orally in Territorial Court, Coppermine, Northwest  
25 Territories, on the 11th day of May, A.D. 1990.

26 M. Rodych, Esq.

27 For the Crown

1 P. Fuglsang, Esq.

2 For the Accused

3 S. Rosadiuk, C.S.R.(A)

4 Official Court Reporter